

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RALPH J. CIMON, III,

Plaintiff

v.

BERKSHIRE LIFE INSURANCE
COMPANY and CHRISTOPHER
GAFFNEY,

Defendants

Civil Action No. _____

NOTICE OF REMOVAL

To The Judges of The United States District Court for the District of Maine

The Guardian Life Insurance Company of America (“Guardian”) as successor-in-interest to the named-Defendant, Berkshire Life Insurance Company (“Berkshire”), through counsel, pursuant to 28 U.S.C. § 1441 *et seq.*, requests removal of a civil action commenced in the Superior Court of Knox County, styled *Ralph J. Cimon, III v. Berkshire Life Insurance Company and Christopher Gaffney*, Docket No. CV-2003-68.

In support of removal, Defendant respectfully states:

1. Plaintiff is a resident of Camden, County of Knox, State of Maine.
2. Berkshire was a corporation organized and existing under the laws of the Commonwealth of Massachusetts. Berkshire ceased legal existence on July 1, 2001 by operation of merger with Guardian. Guardian is Berkshire’s successor-in-interest under

the long-term disability policy at issue in this case. Guardian is a New York corporation with its principal place of business located in the State of New York.

3. Defendant Christopher Gaffney is a resident of the Commonwealth of Massachusetts.

4 The matter in controversy exceeds the value of \$75,000, exclusive of interest and costs.

5. Plaintiff commenced this action by serving on Defendant Berkshire a Complaint to be returned to the Knox County Superior Court.

6. Defendant received the Complaint no sooner than October 8, 2003.

7. This Court has original jurisdiction over this action pursuant to 8 U.S.C. § 1332, and the action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441(a).

8. Defendant desires to remove this action to this Court. Upon information received from counsel for Plaintiff, Defendant Gaffney has not yet been served.

9. Pursuant to 28 U.S.C. § 1446(d), Defendant this day is filing a copy of the Notice of Removal with the Knox County Superior Court, and sending copies of the Notice to Plaintiff's counsel.

WHEREFORE, Defendant respectfully requests that the above-captioned action be removed from the Knox County Superior Court to this Court.

DATED: October 28, 2003

/s/ Geraldine G. Sanchez

Geraldine G. Sanchez

PIERCE ATWOOD

One Monument Square

Portland, ME 04101

(207) 791-1100

gsanchez@pierceatwood.com

Attorneys for Defendant

The Guardian Life Insurance Company of

America, Successor-in-Interest to

Berkshire Life Insurance Company

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2003, I electronically filed, via e-mail to the U.S. District Court in Portland, Maine, Defendant The Guardian Life Insurance Company of America's Notice of Removal, and served the same, via First Class Mail postage prepaid, upon counsel for Plaintiff addressed as follows:

C. Donald Briggs, III, Esq.
Briggs & Counsel
247 Commercial Street
Rockport, ME 04856-5964

DATED: October 28, 2003

/s/ Geraldine G. Sanchez
Geraldine G. Sanchez

PIERCE ATWOOD
One Monument Square
Portland, ME 04101
(207) 791-1100
gsanchez@pierceatwood.com

Attorneys for Defendant
The Guardian Life Insurance Company of
America, Successor-in-Interest to
Berkshire Life Insurance Company